

FOCUS OFIS

Newsletter of the Michigan Office of Financial and Insurance Services

Islamic Mortgageholders Eligible for Michigan Homeowners Insurance

Devout Muslims have always struggled with the conflicting requirements of their faith and the traditional mortgage transaction. The typical arrangement - which involves lenders who provide capital to borrowers, who promise repayment, plus interest - runs afoul of the Koran, which forbids the payment or receipt of interest.



In order to accommodate Islamic borrowers, financial institutions have created special, interest-free financing arrangements commonly called "Islamic Mortgages." These

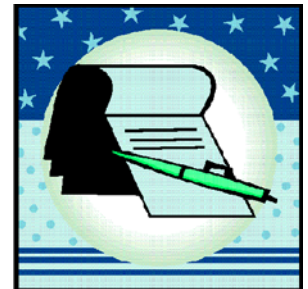
transactions, which are structured as lease-to-own agreements, build transaction costs into monthly lease payments, with the result being that at the end of the lease term, the buyer owns the home.

Just as in regular transactions, a buyer using an Islamic mortgage will contract to buy a home and provide a down payment. The lender funds the remainder of the purchase price. After the loan is funded, the lender and the homebuyer enter into a net lease and purchase agreement. The lender has legal title to the property, and monthly lease payments cover the costs of the lease payments, insurance and any taxes. By the end of the lease term, the lessee will amortize all cost of the transaction. Under the lease agreement, the homebuyer has the property for a specified term and, upon fulfilling the terms of the agreement, the homebuyer becomes the legal owner of the property. By prepaying the lease balance, the homebuyer may acquire title and is entitled to profits from the sale of the house. In the event of homebuyer default, the homebuyer is given procedural

rights like those under a conventional mortgage.

Collectively, these and other rights under the agreements confer equitable ownership upon the lessee.

This creative financing arrangement was a "win-win" for consumers and financial institutions. Recently, however, the Office of Financial and Insurance Services was notified of a consumer who was having trouble trying to buy a home insurance policy as part of the requirements to close the Islamic mortgage. After much wrangling, the consumer was forced to buy a less comprehensive commercial policy at a much higher price. After an investigation, OFIS Commissioner Linda A. Watters solicited input from representatives of the financial and insurance industries then issued a bulletin clarifying that individuals purchasing homes using these mortgages are, in fact, homeowners eligible to purchase a traditional homeowners insurance policy.



The OFIS bulletin clarifies that individuals purchasing homes using these Islamic mortgages are, in fact,

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Commissioner's Corner

I am proud to report that OFIS has had another highly successful quarter regulating the financial and insurance industries, and protecting Michigan's consumers!

Relations with our regulated entities have been very positive. Over the last three months, I have spent a significant amount of time in the field, visiting the offices of regulated entities in order to meet with them in person to discuss the pressing issues facing their business. I very much enjoyed that time and learned a lot about the issues of those we regulate.

Consumer protection also remains a priority. Governor Granholm and I are trying to bring down insurance rates in urban areas by creating purchasing groups that can negotiate directly with insurance companies. These purchasing groups will generate savings for residents in our cities, where insurance is increasingly unaffordable. In addition, we have continued to build our securities area and raise consumer awareness about the activities of scam artists.

As always, OFIS is available to assist consumers and the industry. Please don't hesitate to contact our office toll-free at 1-877-999-6442 (to speak with an OFIS communications center team member) or at www.michigan.gov/ofis.

Sincerely,



Linda A. Watters
OFIS Commissioner



Group Purchasing for Urban Home and Auto Insurance

Governor Jennifer M. Granholm and OFIS

Commissioner Linda A. Watters recently announced a new initiative to make home and auto insurance more affordable for good drivers living in urban areas. This initiative is intended to help community groups and faith-based organizations create purchasing groups that can negotiate directly with insurance companies on behalf of their members for lower rates.

In announcing the plan, Governor Granholm said, "Ensuring that citizens have access to affordable insurance no matter where they live is a critical step in making sure they can afford to live in our cities. We are asking insurance companies to look first at driving records – not street addresses – when they offer customer's rates."

Through the initiative, community groups, churches and neighborhood organizations will team up to create groups of potential customers who have good insurance claims history who happen to live in urban areas. The lower risk presented by purchasing group members should result in lower insurance rates than would otherwise be possible.

OFIS has sent out a Request for Information (RFI) to insurance companies designed to identify innovative ways that companies could offer insurance by grouping lower-risk individuals together. Commissioner Watters remarked, "By bringing together insurance companies with lower-risk insurance policyholders, everyone wins. The insurance companies get access to large groups of responsible drivers and homeowners who file fewer claims, and the consumers get lower rates that rely more on their behavior rather than on where they live."

The Governor's Office of Community and Faith-Based Initiatives will work with local clergy, neighborhood associations, and other groups to find people who fit the qualifications and form the purchasing groups. The Governor applauded the work of local clergy and elected officials who have worked closely with her office to find creative solutions to the cost of insurance.

Through this initiative, purchasing groups would set high standards for people who belong to the member

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Bulletins & Letters Recently Released

(Bulletins and letters can be viewed on the OFIS website at www.michigan.gov/ofis under the Bulletins section.)

- **Bulletins 2005-02 through 2005-14 – Credit Unions** - Annual Comprehensive Audits, Annual Review of Policies and Operations, Investment Policy, Liquidity Policy, Information Security Program, Director Duties and Directorship Policy Development, Lending Policy and Procedures, Allowance and Reserve Accounts, Reimbursement of Officials' Travel and Other Expenses, Third Party Membership Services, CUSOs Providing Services to Other Than Credit Union Customers, Trustees and Custodians of Tax Deferred Plans, Permissible Investments for Deferred Compensation Plans
- **Bulletin 2005-15-BT** - Bank and savings bank supervisory and trust fees
- **Bulletin 2005-16-INS** - Islamic Mortgages (see article)

Sarbanes-Oxley Provisions for Mutual Insurers

The National Association of Insurance Commissioner (NAIC) is currently considering requiring mutual insurers to comply with certain provisions of the Sarbanes-Oxley Act of 2002. Sarbanes-Oxley was passed to provide corporate accountability in the wake of corporate misconduct in recent years.

Michigan is involved in the NAIC/AICPA working group and also participates on the subgroups. At the NAIC quarterly meeting in June, the work group considered the recommendations of two of the subgroups for additions of some best practice provisions of Sarbanes-Oxley.

The Title II subgroup proposed changes to the rule that put constraints on the type of additional services that audit firms can provide and still be considered independent. The Title III subgroup proposed changes to the rule on the requirement to have independent members on the audit committee. The working group has adopted these changes but will not refer the changes to the parent committee until the Title IV subgroup completes its work and the entire rule can be forwarded to the parent committee.

Of the best practices under consideration, Title IV (Section 404) is the most controversial and potentially costly. This section requires the signatures of the Chief Executive Officer and Chief Financial Officer on the company's annual report certifying that the internal controls over financial reports are effective.

Some regulators have indicated that these important internal controls and CEO sign-off will be invaluable and that mutual insurance companies should do what the rest of the financial services industry is required to do. The requirement to have the independent auditor attestation will be considered separately.

At the NAIC meeting, the National Association of Mutual Insurance Companies (NAMIC) registered its opposition to the model audit rule that the working group is considering. The NAMIC presented a study that indicated the Sarbanes-Oxley type provisions being considered by the working group are too costly for mutual companies and should not be imposed on them. The Title IV subgroup will have an interim meeting to continue its deliberations including further discussion about the NAMIC study.



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Bank Secrecy Act Enforcement Improved Through State-Federal Information Sharing

OFIS Commissioner Linda A. Watters has signed a document outlining protocols for sharing information with



federal regulatory agencies in order to streamline enforcement of the Bank Secrecy Act (BSA).

The BSA is a federal law aimed at stopping money laundering that supports terrorist financing, drug smuggling and other criminal acts.

The agreement highlights the recognition by the Financial Crimes Enforcement Network (FinCEN) of the vital role

that Michigan plays in preventing money laundering and terrorist financing through depository institutions. The Conference of State Bank Supervisors (CSBS), the Money Transmitter Regulators Association (MTRA) and the National Association of State Credit Union Supervisors (NASCUS) have been working over the past several months with FinCEN and the IRS to produce model memoranda of understanding to improve coordination by leveraging intelligence. The memoranda are supplemented by letter agreements between FinCEN and federal bank and credit union regulators that streamline approvals for disclosure of jointly-held information to FinCEN.

OFIS Bank Examiner Instrumental in Development of New Advanced Training

Office of Financial and Insurance Services (OFIS) Examination Manager Shelley McCarthy was recently recognized for her role as Curriculum Chairperson for a new training course, "Problem Bank School", offered by the Conference of State Banking Supervisors (CSBS). She is an instructor and participated in the development of the new school, which was over a year in the making. This examiner school is available to state banking department examiners from across the country. Thirty-one examiners from eight states participated in the inaugural program, which was held in the first week of April 2005.

OFIS Commissioner Linda A. Watters commended McCarthy, saying that she is "incredibly proud of Shelley" and that this work "exemplifies the hard work of all OFIS employees." Watters said that McCarthy is a national leader in bank regulation and that we are proud that she can pass on her knowledge to other bank regulators.

Shelley is a long-time instructor for CSBS. Previously she taught at and served as the curriculum

chairperson of a senior examiner school which was targeted to new Examiners-In-Charge. As chairperson, she helped set the course topics and speaker notes for the session. She also helped coordinate and train instructors for the class.

Neil Milner, President & CEO of the Conference of State Bank Supervisors, said, "Shelley is the most senior member of our instructor core and we value her



expertise and leadership. This innovative program will serve the professional development needs of regulators and the industry for years to come."

Shelley is a 16-year veteran of OFIS, working in the East Region of the Bank and Trust Division. She is currently the examiner-in-charge of one of Michigan's largest institutions, a role she has had for three years. She has served as a mentor to many examiners on the staff and is well regarded by her co-workers.

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Customer Survey Yields Positive Results

Earlier this year, the OFIS Consumer Services Division sent a survey to a random sample of consumers who had contacted OFIS in 2003 and 2004. The survey requested information and opinions about the professionalism and helpfulness of OFIS staff. The results were very positive overall, and provided great feedback for OFIS staff moving forward. OFIS Consumer Services sent out 1,000 surveys, and received back approximately 200.

- 98% of respondents said they were greeted pleasantly
- 80% said they were not on hold too long once in contact with a consumer service representative
- 76% said that they had their concerns addressed at the first point of contact
- 88% of callers that had to be transferred said that they were not transferred too many times
- 85% of those with a complaint said that the OFIS complaint process was adequately explained to them

While there were mostly positive responses, the survey also proved helpful in identifying some areas that need to be improved (such as 51% of people who left a voice-mail for an OFIS employee indicated their call was not returned within a day). To ensure the best possible customer service for Michigan citizens, all OFIS staff will be making efforts to improve in these areas.

Because those who return surveys typically are individuals who have had exceptionally good or exceptionally bad experiences, Commissioner Linda Watters and Consumer Services Staff viewed these results as very positive. In addition to being responsible for complaint handling, the OFIS Consumer Services is responsible for the Communications Center. Customer service representatives answer all incoming calls, including those received on the toll-free telephone line

(1-877-999-6442) and have direct contact with Michigan consumers. The Communication Center is staffed by six full-time employees who answer OFIS related questions and direct questions to the proper OFIS staff. Some examples of positive comments received regarding services provided by the Consumer Services Division staff include:

- ▶ “Your service is fabulous. It is refreshing to be able to talk to people again instead of a recorded menu. I received a written response in a very timely fashion.”
- ▶ “You are the best. No complaints. This department is a wonderful resource”
- ▶ “Handled extremely well. Greatly satisfied and fast service. Very pleasant. Handled my complaint fast. Very polite and considerate personnel.”
- ▶ “It is nice to know that someone is there to fight for you. Thank you.”
- ▶ “Thank you and great job, well done.”
- ▶ “I was very pleased with your service and was able to resolve my complaint with the company.”
- ▶ “Big ‘thank you’ for helping me out! Everything went well, wonderful response. Keep up the good work.”
- ▶ “I feel I was treated fairly and able to be heard. Handle the right way and with class. Everything was done fairly... it took away a lot of stress. God bless you.”

1st Quarter CU Info

OFIS compiles information on state-chartered credit unions, both individually, and in the aggregate and has issued the 1st Quarter Financial Results.

The number of state-chartered credit unions declined by two during the fourth quarter of 2004, from 258 to 256. The number of credit unions reporting a decline in assets greater than 5% dropped from 27 to 21.

Aggregate net worth and return on average assets ratios declined slightly due to a slight increase in operating expenses. Credit unions reporting an ROAA of less than .20% dropped from 50 to 38. Lagging interest rates prolong the possibility of rapid increases in rates. The aggregate delinquency and net charge-off ratios declined slightly to 0.97% and 0.53% (respectively).

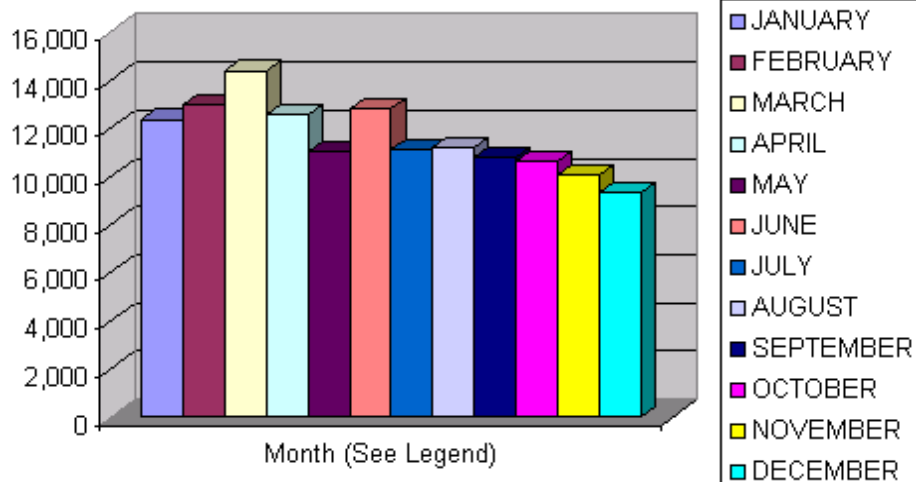
More detailed 1st quarter information (including charts and graphs) about state-chartered credit unions can be found at the Credit Union Division website at www.michigan.gov/ofis under Industry Services/Credit Union/Credit Union Letters.

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OFIS Consumer Protection: Communications Center Calls Received

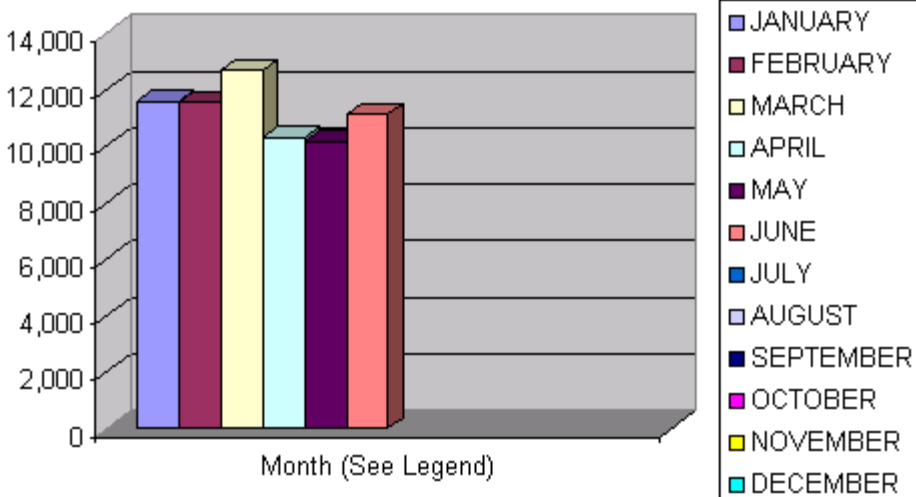
2004 Consumer and Regulatory Calls

<u>JANUARY</u>	12,367
<u>FEBRUARY</u>	13,005
<u>MARCH</u>	14,403
<u>APRIL</u>	12,588
<u>MAY</u>	11,040
<u>JUNE</u>	12,841
<u>JULY</u>	11,124
<u>AUGUST</u>	11,197
<u>SEPTEMBER</u>	10,791
<u>OCTOBER</u>	10,636
<u>NOVEMBER</u>	10,061
<u>DECEMBER</u>	9,358



2005 Consumer and Regulatory Calls

<u>JANUARY</u>	11,615
<u>FEBRUARY</u>	11,557
<u>MARCH</u>	12,726
<u>APRIL</u>	10,323
<u>MAY</u>	10,189
<u>JUNE</u>	11,166



Consumer Dollars Recovered

2004:

\$8,765,576.50

2005 (through June):

\$4,230,470.47

OFIS consumer protection actions often result in money recovered for Michigan consumers. These recoveries include dollars recovered by OFIS for consumers filing insurance, securities, banks, credit unions, and mortgage companies complaints.

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Recent Commissioner's Orders

- **Rana Z. Zahid** of the My Insurance Agency (a/k/a Mich Insurance Agency) in Taylor, MI had her insurance producer license revoked.
- **Chin-Yueh Chen** of Sweethome Financial Corp in Rochester, MI was fined \$1,000 for operating without a license and is allowed to operate as a licensed entity.
- **John M. Huizenga** of Homes and Loans of West Michigan LLC in Hudsonville, MI was fined \$1,000 for operating without a license and is allowed to operate as a licensed entity.
- **Enterprise Mortgage, Corp** of Lansing, MI had their mortgage broker and lender license revoked and was ordered to cease and desist all mortgage operations.
- **Gregory C. Dziewicki**, an insurance producer/agent in Kalamazoo, MI was fined \$2,500 and ordered to make full restitution to clients charged service fees and to those from whom he collected premium for coverage that was not placed. Failure to pay would result in automatic suspension of the license until restitution is made.
- **Edith Y. Walker** of Southfield, MI had her insurance producer license revoked.
- **Debra Ryan** of Grand Blanc, MI licensed property/casualty insurance producer had her license revoked.
- **Robert James Wohlscheid** of Bay City, MI was ordered to cease and desist operating under the Michigan Uniform Securities Act.
- **Dennis Hartwig** of First Fidelity Financial, Inc. was ordered to cease and desist operating under the Michigan Uniform Securities Act.
- **Harold Brothwell** of the Golden Sports Club in Marion, MI was ordered to cease and desist operating under the Michigan Uniform Securities Act.
- **Alan J. Fisk** of Shelby Twp was ordered to cease and desist operating as a producer.
- **Ernest Duane Sanford** of Quincy, MI was refused an insurance producer's license.
- **Brian Barrick** of St. Joe, MI was refused an insurance producer's license.
- **Nicola Turner** of Southfield, MI was ordered to pay a civil penalty of \$1,000 for operating without a mortgage broker license and will be licensed.
- **Paul E. Bradford** of Royal Oak, MI was ordered to pay a civil penalty of \$1,000 for operating without a mortgage broker license and will be licensed.

(This is a sample of Commissioner's Orders for the second quarter of 2005 and is not a comprehensive list.)

FOCUS ON OFIS

Group Purchasing (con't)

organizations. Those standards could include: a better-than-average driving record, car garaged at night, and home inspection standards. Current Michigan law allows insurers to write auto and home insurance for specific groups of policyholders at rates that are lower than what they charge to individual policyholders. Group rates are generally lower because it is less expensive to market insurance to one entire group of people than it is to seek out each of those people individually. Rates can also be significantly lower for groups with better than average loss experience, in other words, groups who are expected to file fewer and/or less expensive claims.

The RFI contains questions posed to the insurance companies, and information is due on August 15, 2005. The information submitted from the RFI will be for analysis purposes only and may or may not be used to develop a Request for Proposal (RFP) from the purchasing groups (not the state).

For more information or to view the RFI, interested parties should go to the Office of Community and Faith-Based Initiatives website at <http://www.michigan.gov/outreach>.

Islamic Mortgages (con't)

homeowners eligible for homeowners insurance. This is especially important in Michigan, which has one of the largest Muslim populations in the nation with more than 400,000 Arab Americans.

Islamic mortgages were the subject of Interpretive Letter #806, issued by the Comptroller of the Currency (OCC) in December of 1997. In this letter, which is amply supported by court precedent, the OCC focuses upon substance rather than form. In concluding that national banks were authorized to enter into these mortgages, the OCC expressly rejected the significance of "legal title" as follows, "... But such a narrow view of the statute would elevate form over substance because, in this case, having legal title is largely cosmetic and the actual indicia of ownership are borne by the Lessee."

While there appears to be no direct, binding Michigan court precedent exactly on point, several authoritative sources and the precedents concerning land contracts support the recognition of equitable ownership with respect to Islamic mortgages. These sources include *Restatement of Property/Mortgages 3d*, Reporter's Comment b(3),

Reid v Dowd, 257 Mich 492 (1932), and *London v Gregory*, 2001 WL 726940 (Mich App Feb. 23, 2001).

Subject to underwriting rules authorized by MCL 500.2117, insurers are required to sell home insurance to eligible persons. For home insurance, this is defined as a person who is the owner-occupant or tenant of a dwelling of any of the following types: a house, a condominium unit, a cooperative unit, a room, or an apartment; or a person who is the owner-occupant of a multiple unit dwelling of not more than four residential units. Commissioner Watters has interpreted "owner-occupant" to include persons purchasing homes through net lease and purchase agreements. These persons are, therefore, eligible to purchase home insurance.

Insurers writing this coverage will need to review their forms and practices to ensure that the interests of the lenders and purchasers/equitable owners/lessees are protected in the Islamic mortgage context to the same extent that mortgagors and mortgagees are protected in the conventional mortgage context. Questions can be addressed to OFIS staff, who can assist writers and consumers.

FOCUS ON OFIS

Continuing Education Frequently Asked Questions

Michigan law requires continuing education for most insurance producers regulated by the Office of Financial and Insurance Services. Because OFIS staff receive regular questions on this topic, *Focus on OFIS* will now have a “Continuing Education” FAQ section that will be

published as necessary. If you have questions that are not on this list, you can always check the OFIS website at www.michigan.gov/ofis or contact OFIS toll-free at 1-877-999-6442 and ask for Tracy Lord Bishop who is the new staff member in charge of continuing education.

Q. What are the specific CE requirements in the state of Michigan?

A. The Michigan Insurance CE Act requires MOST MI licensed producers and solicitors to earn 30 hours of State-approved education credit every two years, with a minimum of 15 hours in their line of licensure.

If you hold a Life and/or Health license, you must earn 15 credit hours in approved life and/or health courses and an additional 15 credits in “either” life and/or health or other approve insurance related courses. If you also hold a Property & Casualty license, the remaining 15 credits hours must consist of P&C courses.

If you hold only a P&C license, you must earn 15 credit hours in approved P&C courses. The remaining 15 credit hours may consist of any type of course you choose, as long as it is approved by the state of Michigan and/or its designee.

Q. Are there any exceptions to the CE requirement?

A. Yes. There are four (4) exceptions: (1) Limited Life, (2) Turkey, Crop and Hail, (3) Travel, Accident and Baggage, and (4) Title.

Q. How do I know when my 30 credit hours are due?

A. The Continuing Education law established the following table to define your continuing education review date by last name, first initial and the last digit of your Social

Security number.

Last Digit of SSN	Last Name Begins	
	A-L	M-Z
1	1-1-03	1-1-04
2	2-1-03	2-1-04
3	3-1-03	3-1-04
4	6-1-03	6-1-04
5	7-1-03	7-1-04
6	8-1-03	8-1-04
7	9-1-03	9-1-04
8	10-1-03	10-1-04
9	11-1-03	11-1-04
0	12-1-03	12-1-04

Successive Review Dates are every two years thereafter.

Your first applicable review date is printed on your license document in the lower right hand corner. Successive review dates will be every two years thereafter. You may also call Promissor, formerly ASI, at 1-800-274-2603 or the Michigan Office of Financial and Insurance Services (OFIS) at 1-877-999-6442 to verify your review date. If you feel there is a problem with the review period, you must contact the OFIS to get this resolved.

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FOCUS ON OFIS

Continuing Education (con't)

Q. If I am a newly licensed agent, do I need to comply with CE as established by the Insurance Code?

A. If a licensee is licensed within 23 months of his or her established review date, the hours shall not be reviewed on the first scheduled date following the issuance of the initial license. You will be required to comply on the next scheduled review date according to the schedule established in the insurance code. Check your license document to verify your CE review date; view the following website: www.michigan.gov/ofis and select (or just click) on Insurance Agent Locator or contact Promissor at 1-800-274-2603.

Q. If I'm dually licensed, i.e., hold both a P/C and a L/H license, how many hours of CE do I need?

A. Thirty (30) hours. 15 hours (credits) are required for each qualification, i.e. 15 hours in Property/Casualty and 15 hours in Life/Health or 30 hours of "either" credit hours.

Q. Non-Resident CE Requirements: How do I meet my CE requirements if I am a nonresident agent?

A. Only nonresidents from Guam need be concerned. Michigan is reciprocal with all other states and the province of Ontario, Canada. This means that by meeting your home state CE requirements you will automatically comply with Michigan's requirements. You do not need to send anything to the Michigan Office of Financial and Insurance Services.

Q. Will changing my name or social security number change my review period dates?

A. No. Your CE review date (month, day, year) is established when you are first licensed. The month and day remain fixed, the year changes every two (2) years.

Q. Can a new licensee begin to accumulate CE credits as soon as he or she passes the licensing exam?

A. No. A new licensee cannot begin to accumulate CE credits until the effective date of his or her permanent license has been established. As soon as you receive your license, you may begin to sign up for CE classes using your ID number.

Q. What kinds of courses qualify for CE credit?

A. Only courses specifically approved by the Michigan Office of Financial and Insurance Services and/or its designee qualify for CE credit. To be approved, a course must be offered by an OFIS approved provider.

Q. How do I designate courses that qualify for the "either" category?

A. You cannot. "Either" credit hours qualify for either L/H or P/C and are applied automatically by the computer system where any deficiencies occur in the L/H or P/C lines. You do not need to do anything to get the hours assigned to a delinquent line.

Q. Can I take the same course twice during the same review period?

A. No. An approved CE course will be credited only once during any one review period. Duplicate completions will not be counted and will appear on your record with zero (0) credit.

Q. How can I obtain a listing of approved providers and courses for Michigan CE?

A. You may obtain a listing of providers and courses open to the public by accessing Promissor's Internet website at www.promissor.com or by contacting Promissor at 1-800-274-2603.